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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/321,809	05/28/1999	RICHARD L. FRANK	ORA99-07(OID)	7075
21005	7590	03/29/2005	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			TANG, KENNETH	
			ART UNIT	PAPER NUMBER
			2195	

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/321,809

Applicant(s)

FRANK ET AL.

Examiner

Kenneth Tang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 4-7, 11-14, 18-21 and 25-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-10, 15-17 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's election without traverse of Group I (Claims 1-3, 8-10, 15-17, and 22-24) in the reply filed on 1/21/05 is acknowledged. Claims 4-7, 11-14, 18-21, and 25-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse.
2. Applicant is required to cancel claims 4-7, 11-14, 18-21, and 25-32.
3. Claims 1-3, 8-10, 15-17, and 22-24 are considered for examination.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-3, 8-10, 15-17, and 22-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:
  - a. In claims 1, 8, 15, and 22, "respective amount" is indefinite because it is not made explicitly clear in the claim language what this is respective to and it is unclear what this amount is.
  - b. In claims 3, 10, 17, and 24, "donor process" is indefinite because it is not unclear what is being donated and it's not made explicitly clear what this donor process does. In the claim language, it doesn't perform anything. It just simply exists.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**5. Claims 1-3, 8-10, 15-17, and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Wagner (US 5,940,868).**

6. As to claim 1, Wagner teaches a method for allocating memory to a process on a computer (memory allocation method and apparatus) (*see Title*), the method comprising:

creating a plurality of processes (creating a multiplicity of processes) (*col. 1, lines 59-65*), each process being allocated a respective amount of memory (access of a respective portion of physical memory for a corresponding process) (*col. 2, lines 1-11 and claim 3*); and

pooling (aggregating) the allocated memory for the processes together for use by at least one of the processes (*col. 1, lines 59-67, claim 11*).

7. As to claim 2, Wagner teaches wherein the at least one process is a single consumer process (request to access resource) (*col. 3, lines 40-51 and col. 4, lines 1-7*).

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8. As to claim 3, Wagner teaches wherein the processes include one consumer process (request to access resource) (*col. 3, lines 40-51 and col. 4, lines 1-7*) and at least one donor process (software routines resident in memory such as system kernel code and application user code) the number of donor processes determined from the amount of allocated memory (*col. 1, lines 5-44, col. 3, lines 40-51 and col. 4, lines 1-7*).

9. As to claim 8, it is rejected for the same reasons as stated in the rejection of claim 1.

10. As to claims 9 and 10, they are rejected for the same reasons as stated in the rejection of claims 2 and 3, respectively.

11. As to claim 15, it is rejected for the same reasons as stated in the rejection of claim 1. In addition, it is inherent that the computer system has a central processing unit (CPU).

12. As to claims 16 and 17, they are rejected for the same reasons as stated in the rejection of claims 2 and 3, respectively.

13. As to claim 22, it is rejected for the same reasons as stated in the rejection of claim 1. In addition, Wagner teaches a computer hardware system that teaches the means.

14. As to claims 23 and 24, they are rejected for the same reasons as stated in the rejection of claims 2 and 3, respectively.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kt  
3/17/05

  
MENG-AL T. AN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100